



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

- ☒ Preproposal Statement of Inquiry was filed as WSR 05-11-034; or
☐ Expedited Rule Making--Proposed notice was filed as WSR; or
☐ Proposal is exempt under RCW 34.05.310(4).

- Original Notice
☐ Supplemental Notice to WSR
☒ Continuance of WSR 05-18-060

Title of rule and other identifying information: (Describe Subject) The department is proposing the following amendments to chapter 16-228 WAC (General Pesticide Rules) that affect the application of pesticides near schools, hospitals, nursing homes, adult and child day care centers:

- Adding the definition of "responsible person" to WAC 16-228-1010;
- Modifying the definition of "fumigant" in WAC 16-228-1010; and
- Adding a new section, 16-228-1221, "Must an applicator notify schools, hospitals, nursing homes and day care centers prior to an application of certain pesticides?" Requires an applicator to provide notification of application for certain applications of specified pesticides near schools, hospitals, nursing homes and adult and child day care centers.

Hearing location(s):**Submit written comments to:**Name:
Address:

By (date)

Date: _____ Time: _____

Assistance for persons with disabilities:

Date of intended adoption: December 30, 2005
(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments result from pesticide stakeholders expressing concerns to the department that those parts of chapter 16-228 WAC regulating airblast applications need to be more restrictive. The proposed amendments:
Add notification requirements for specified applications of "Danger/Poison" pesticides near schools, hospitals, nursing homes and adult and child day care centers.
Add a definition of "responsible person" to WAC 16-228-1010
Modify the definition of "fumigant" to be consistent with RCW 17.21.020(20); and
Establish a mechanism to reduce the possibility that sensitive human populations will accidentally be exposed to pesticides as a result of pesticide drift.

Reasons supporting proposal: The department obtained stakeholder comments regarding the need to modify WAC 16-228-1220(4) so it would be more restrictive. A committee of interested parties worked with the department to develop proposed rule amendments. Although it does not represent a consensus opinion of the committee, the new section 16-228-1221 is the final result of the committee's effort.

Statutory authority for adoption: RCW 17.21.030(1)(a) and chapter 34.05 RCW**Statute being implemented:** RCW 17.21.030(1)(a)**Is rule necessary because of a:**

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

CODE REVISER USE ONLYCODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 30 2005

TIME

4:48

WSR

05-24-046

AM
PM**DATE** November 30, 2005**NAME** Bob Arrington**SIGNATURE****TITLE** Assistant Director

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

The proposed rule language was a compromise based upon the work of a representative stakeholder committee. The department is prevented from proposing some additional airblast restrictions requested by some committee members because those restrictions exceed the department's statutory authority. Only the Legislature has the authority to amend chapter 17.21 RCW.

Name of proponent: (person or organization) Washington State Department of Agriculture

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting.....Ann Wick	1111 Washington Street, Olympia, WA	(360) 902-2051
Implementation...Cliff Weed	1111 Washington Street, Olympia, WA	(360) 902-2036
Enforcement.....Cliff Weed	1111 Washington Street, Olympia, WA	(360) 902-2036

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No. Explain why no statement was prepared. RCW 19.85.030(1)(a) requires the department to prepare a Small Business Economic Impact Statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic impact of the proposed amendments and concluded that the cost imposed by the notification requirements in WAC 16-228-1221 are "not more than minor" and do not have a disproportionate impact on small businesses, therefore, a formal SBEIS is not required. Affected sites (schools, hospitals, nursing homes and adult and child day care centers) are not required to take any action if they choose not to. However, by following the notification requirements in WAC 16-228-1221, affected sites could benefit from substantial cost savings by avoiding possible pesticide exposure incidents.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

The department held public hearings on the rules on the following dates:

The Washington State Department of Agriculture CR-102 Attachment – Public Hearing Locations and Times

The public hearing dates, times and locations for the proposed amendments to chapter 16-228 WAC General Pesticide Rules are listed in the following table:

DATE	TIME	LOCATION
Wednesday, November 2, 2005	3:00 P.M.	Wenatchee Valley Community College Room: Anderson 2047 1300 5 th Street Wenatchee, WA 98801
Wednesday, November 2, 2005	7:00 P.M.	Wenatchee Valley Community College Room: Anderson 2047 1300 5 th Street Wenatchee, WA 98801
Monday, November 7, 2005	7:00 P.M.	Washington State Department of Agriculture 21 North 1 st Avenue Suite 236 Yakima, WA 98902
Monday, November 14, 2005	3:00 P.M.	Washington State Department of Agriculture Second Floor, Room 259 1111 Washington Street SW Olympia, WA 98504- 2560

In addition, the department received written comments on the rules through November 15, 2005. In accordance with RCW 34.05.335(2), the department is continuing to review and consider the testimony and submissions at the public hearings and other written comments.

The department intends to continue its consideration of all these submissions and has continued the intended date of adoption to December 30, 2005.